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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,894	02/19/2004	Lionel Reyes	REYES1	9066

7590 04/19/2005
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001

EXAMINER

PATEL, VINOD D

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,894

Applicant(s)

REYES ET AL.

Examiner

Vinod D. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-15 is/are rejected.
- 7) ☐ Claim(s) 3-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED OFFICE ACTION

INTRODUCTION

1. This application/control number 10/780,894 has been examined. This is the first action on the merits of the claimed invention. The application has claims 1-15 pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-7 and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 5 recites the limitation "a second space" in line 2, Claim 11 recites limitation "a third space" in line 2-3. There is insufficient antecedent basis for this limitation in the claim. A first space and a second space have not been recited in dependent claims.

Change dependency of claim 5 to claim 4 instead of claim 1, and dependency claim 11 to claim 5 instead of 10.

For examination purpose, claim 5 is dependent on claim 4 and claim 11 is dependent on claim 5 is considered by the examiner.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-2, 8-10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Yeung (US5642657).

Yeung discloses a heating element (12) can be a mica card having a ribbon on the side, a support device (6) holding the mica sheet and constituting a first reflector; and a plate (11) secured to the support device (6) and constituting a second reflector (column 4, lines 54-64).

The heating element wherein the support device is separated from said mica sheet by a first space as shown in the Figures (1-4).

The support device and the plate a surface have good heat reflection properties.

The heating element is located substantially vertically in an electric toaster (see Figures 1-12) having a base; a case having an upper end; a toasting chamber disposed in the case and having an opening in the form of a slot at the upper end for the introduction and removal of bread; a movable bread support rack in the chamber. The electric toaster, wherein the plate has at least one spacer that comes in contact with said case.

With respect to claim 8, the claimed invention as a whole directed to the heating element with additional recited features of plate (11). Such process or method for forming the plate by bending or stamping is not germane to the issue of patentability of the claimed heating element itself as a whole.

Allowable Subject Matter

7. Claims 3-7 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. The following is an examiner's statement of reasons for allowance: The prior art of record does not disclose the heating element wherein the support device has at least one projection coming in contact with said mica sheet and defining the thickness of the first space.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The art should be both separately considered and considered in conjunction with the previously cited art when responding to this action. Cox (US4396825) relates to air cooled toaster with deflector, Slavin (US5644974), Vaughn (US6205910), Gort-Barten (US6297477, US6417492), Wanat (US6854380), Kwong (US5126534) relate to toasters.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinod D. Patel whose telephone number is 571-272-4785. The examiner can normally be reached on 7.30 A.M. TO 4.00 P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP


Tu Ba Hoang
Primary Examiner

 4/15/05
Vinod Patel
Patent Examiner
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